

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.08.2017

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THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P.No.30218 of 2013

and

M.P.No.2 of 2013 and 1 of 2015

1.S.Santhini
2.P.Maragathamani
3.K.Anbalagan .. Petitioners

Vs.

1.The Director of Agriculture,
Chepauk, Chennai - 5.
2.The Commissioner of Horticulture,
Chepauk, Chennai - 5.
3.The Additional Director of
Agricultural(Personnel),
Office of the Director of
Agriculture, Chepauk,
Chennai - 5. .. Respondents

Petition filed under Article 226 of The Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records relating to the proceedings of the Additional Director of Agriculture (Personnel Management), Office of the Director of Agriculture, Chennai - 5, the third respondent herein made in AOE1/119182/2013 dated 25.10.2013 quash the same insofar as the petitioners are concerned and consequently direct the respondents herein to retain the petitioners in the Horticulture Department as Horticultural Officer with continuity of service protecting their original TNPSC seniority with all consequential service and monetary benefits.

For Petitioners .. Mr.K.Rajkumar

For Respondents .. Mr.T.M.Pappiah,
Spl. Govt. Pleader

ORDER

The petitioners have approached this Court seeking the following relief:

to issue a writ of certiorarified mandamus to call for the records relating to the proceedings of the Additional Director of Agriculture (Personnel Management), Office of the Director of Agriculture, Chennai - 5, the third respondent herein made in AOE1/119182/2013 dated 25.10.2013 quash the same insofar as the petitioners are concerned and consequently direct the respondents herein to retain the petitioners in the Horticulture Department as Horticultural Officer with continuity of service protecting their original TNPSC seniority with all consequential service and monetary benefits.

2.The case of the petitioners is that originally they were appointed as Agricultural Officers in the Agriculture Department in 1996. Thereafter, they were deputed to work in Horticulture Department in 2001. According to the petitioner, they have exercised their option to remain in Horticulture Department as early as 10.01.2013 by accepting the conditions of service in the Horticulture Department. The exercise of option was made by the petitioners in terms of G.O.Ms.No.537 Agriculture (AA 8) Department dated 24.12.2007, in and by which, the Government Order provided for restructuring the Directorate of Agriculture, Horticulture etc., and the officials were directed to exercise their option either to get repatriated to the parent Department viz., Agriculture Department or to remain in the Horticulture Department. It is the admitted case of the petitioners that all the three petitioners have exercised their option to remain in Horticulture Department by duly executing the option provided for under the abovesaid Government Order.

3.While matter stood thus, the third respondent by proceedings dated 25.10.2013 issued posting orders to the Agricultural Officers who have opted to go back to the parent Department viz., Agriculture Department. According to the petitioners, their names have been included wrongly in the list of Agricultural Officers, who exercised their option to go back to the parent Department at Sl. Nos.18,19 and 21 in the abovesaid proceedings dated 25.10.2013. When the said proceedings was passed, all the petitioners had already

exercised their option in a proper format issued for the said purpose to remain in the Horticulture Department. The said option exercised by the petitioners in the duly provided format had been filed along with the typed set of papers. The said fact has not been disputed by the respondents.

4. Since the proceedings of the third respondent posting the petitioners to the parent Department was contrary to the option exercised under G.O.Ms.No.537 Agriculture (AA 8) Department dated 24.12.2007, the petitioners are before this Court, challenging the said proceedings as unjust, arbitrary and illegal.

5. Mr. K. Rajkumar, learned counsel appearing for the petitioners would submit that the issue raised in this writ petition is squarely covered by the recent decision passed by this Court in W.P.Nos.1174 to 1176 of 2017 dated 27.04.2017. A learned Judge of this Court in para 8 has observed as follows:

"8. But, I do not find any merit thereon, for two reasons. First of all, the petitioners have given their option to continue in the Horticulture Department. Secondly, the form issued by the respondents clearly mentions that the seniority ranking given by the TNPSC should be protected as per the terms and conditions envisaged in G.O.Ms.No.537 Agriculture (AA 8) Department dated 24.12.2007 and in accordance with the judgment of the Hon'ble High Court of Madras dated 19.12.2012 in W.P.Nos.19901, 25894, 29016 of 2008 and W.P.Nos.12025 and 13298 of 2012. Therefore, when the petitioners have filled in the option form served by the respondents, it is not open to the respondents to say that they have exercised their option to continue in Horticulture Department without a condition that their ranking assigned by the TNPSC should be protected."

6. According to the learned counsel for the petitioners, the claim of the petitioners squarely falls within the order passed by this Court as extracted above. According to the learned counsel, all the petitioners have completed five years of service in the Horticulture Department as early as in the year 2012 itself and therefore, they had exercised their option rightly as per their choice under the above said Government Order for being absorbed in the Horticulture Department.

7. Upon notice, Mr. T. M. Pappiah, learned Special Government Pleader entered appearance on behalf of the respondents and placed his submissions before this Court and reiterated the averments contained in the counter affidavit filed on behalf of the respondents. However, as regards the claim of the

petitioners is concerned, the issue is no more res integra in view of the order passed by this Court in W.P.Nos.1174 to 1176 of 2017 dated 27.04.2017 in and by which the claim of the similarly placed persons have been allowed by this Court. Even otherwise, the claim of the petitioners is squarely covered by G.O.Ms.No.537 Agriculture (AA 8) Department dated 24.12.2007 and therefore, denial of the claim by the petitioners is without any justification. The factual position as discussed above has not been disputed by the learned Special Government Pleader appearing for the respondents.

8.In the above circumstances, the petitioners are entitled to succeed in the writ petition. The impugned order passed by the third respondent dated 25.10.2013 insofar as these three petitioners are concerned is set aside and on being permanently absorbed in the Horticulture Department, the petitioners are also entitled to all consequential and attendant service benefits and it is also made clear that the petitioners are also entitled to the benefit of assignment of seniority on the basis of ranking granted by the Tamil Nadu Public Service Commission and the said seniority shall be protected in the present Horticulture Department. The order absorbing the petitioners shall be passed within a period of two months from the date of receipt of a copy of this order.

9.With these directions, the writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/
Assistant Registrar

/True copy/

Sub Assistant Registrar

To

- 1.The Director of Agriculture,
Chepauk, Chennai - 5.
- 2.The Commissioner of Horticulture, Chepauk, Chennai - 5.
- 3.The Additional Director of
Agriculture (Personnel),
Office of the Director of Agriculture,
Chepauk, Chennai - 5.

+3cc to K.Rajkumar, Advocate SR.No.62192

SDR 10.10.2017

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